



UNITED STATES PATENT AND TRADEMARK OFFICE

M

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,117	07/19/2003	William L. Courtney	9297.6848	4443
44538	7590	02/23/2005	EXAMINER	
DANIEL S. POLLEY, P.A. 1215 EAST BROWARD BOULEVARD FORT LAUDERDALE, FL 33301			KEASEL, ERIC S	
		ART UNIT	PAPER NUMBER	
		3754		
DATE MAILED: 02/23/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/623,117	COURTNEY, WILLIAM L.
	Examiner Eric Keasel	Art Unit 3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 19 July 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-18 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-18 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 19 July 2003 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites “a first mixing valve” and “first means for directing...content...to the outlet”. However, the mixing valve (333) of the specification and drawings is what directs the content to the outlet (in varying combinations from the sources). It would appear that the claimed mixing valve corresponds to the manifold of the specification and drawings (which is only part of the mixing valve in the specification and drawings) since the limitations that follow only refer to the incoming and outgoing flow paths and it would appear that the “first means for directing...content...to the outlet” refers to the valve core of the specification and drawings (which is only a part of the mixing valve of the specification and drawings). The apparent change in terminology between the specification and the claims render the claims indefinite as to whether the mixing valve refers to the manifold only or if the recited mixing valve corresponds to the disclosed mixing valve that includes both the manifold and the valve core.

Claims 7 and 8 recite “a third port”. However, both of these claims depend upon claim 1, which recites three ports (two input ports and one outlet port). It is vague and indefinite as to whether the “third port” in claims 7 and 8 refer to a fourth port or one of the three ports previously recited in claim 1.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Cataneo et al. (US Patent Number 5,634,571).

A multi-chambered fluid delivery system, comprising: a first chamber (12); a second chamber (14); a first delivery tube (52) having a first end and a second end, said first delivery tube in communication with said first chamber at the first end of said first delivery tube; a second delivery tube (54) having a first end and a second end, said second delivery tube in communication with said second chamber at the first end of said second delivery tube; a first mixing valve (48 or 60 depending on the interpretation of the term) having a first input port, a second input port and an outlet (84), the second end of said first delivery tube attached to the first input port of the first mixing valve to provide communication between the first mixing valve and the first chamber, the second end of said second delivery tube attached to the second input port of the first mixing valve to provide communication between the first mixing valve and the second chamber; and first means for directing (60) either content from said first chamber, content from said second chamber or a combination of content from said first chamber and said second chamber to the outlet of the first mixing valve.

5. Claims 1, 2, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Michielin et al.

Michielin et al. disclose a multi-chambered dispenser with the chambers (46 and 47) being of different sizes. The combination of elements 49, 50, and 51 are read as a means for directing because they perform the function of directing either content from the first chamber, content from the second chamber or a combination of content from the first and second chambers.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-3, 5, 7, 10, 15, 16, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Michielin et al. (US Patent Number 4,753,371) in view of Cataneo et al.

Michielin et al. disclose multiple chambers (46 and 47) of different sizes in a dispenser that can dispense contents from a combination of the chambers (note: this is read with the outlet to element 51 being the outlet). However, Michielin et al. do not disclose a means for directing either content from the first, second, or both chambers with respect to the single outlet from element 51. Cataneo et al. disclose using a valve core (60) within the manifold comprising the first and second inlets (52 and 54) and the outlet (84). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have used the valve core and manifold of Cataneo et al. with the multiple chamber device of Michielin et al. in order to allow

the user to selectively vary the flow from 100% of the first chamber to 100% of the second chamber and any ratio therebetween as taught by Cataneo et al. (see the last sentence of the abstract). Re claims 3, 5, and 7, the examiner takes official notice that the use of additional chambers, ports, and outlets to an otherwise known structure is old and well known in the art. Re claims 15, 16, and 18, the examiner takes official notice that the selection of various known liquids in the chambers is old and well known in the art.

8. Claims 1-3, 5-9, 11, and 13-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tripp (US Patent Number 4,948,023) in view of Cataneo et al.

Tripp discloses a multiple chamber dispenser with the chambers built into a garment disposed on both the front and back side of a user. Tripp fails to disclose the means for directing either content from the first, second, or both chambers with respect to the single outlet from element 51. Cataneo et al. disclose using a valve core (60) within the manifold comprising the first and second inlets (52 and 54) and the outlet (84). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have used the valve core and manifold of Cataneo et al. with the multiple chamber device of Tripp in order to allow the user to selectively vary the flow from 100% of the first chamber to 100% of the second chamber and any ratio therebetween as taught by Cataneo et al. (see the last sentence of the abstract). Re claims 3, 5, 7, and 8, the examiner takes official notice that the use of additional chambers, ports, and outlets to an otherwise known structure is old and well known in the art. Re claims 15-18, the examiner takes official notice that the selection of various known liquids in the chambers is old and well known in the art.

9. Claims 1-5, 7, 11, 12, 15, 16, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hosaka (US Patent Number 5,148,950) in view of Cataneo et al.

Hosaka discloses a multi-chambered bite valve dispenser built into a helmet (i.e. body armor). Hosaka fails to disclose the means for directing either content from the first, second, or both chambers with respect to the single outlet from element 51. Cataneo et al. disclose using a valve core (60) within the manifold comprising the first and second inlets (52 and 54) and the outlet (84). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have used the valve core and manifold of Cataneo et al. with the multiple chamber device of Hosaka in order to allow the user to selectively vary the flow from 100% of the first chamber to 100% of the second chamber and any ratio therebetween as taught by Cataneo et al. (see the last sentence of the abstract). Re claims 3, 5, and 7, the examiner takes official notice that the use of additional chambers, ports, and outlets to an otherwise known structure is old and well known in the art. Re claims 15, 16, and 18, the examiner takes official notice that the selection of various known liquids in the chambers is old and well known in the art.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Fenwick, Jr., Kassel, Modig, Geddie, Nelson, Porter, Faraj, and Bailey disclose similar devices.

Art Unit: 3754

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Keasel whose telephone number is (571) 272-4929. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar can be reached on (571) 272-4906. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Eric Keasel 17 FEB 2005
Eric Keasel
Primary Examiner
Art Unit 3754